

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations, which apply in relation to England only, revoke the Plastic Materials and Articles in Contact with Food (England) Regulations 2006 (“the No.1 Regulations”), and re-enact those Regulations with certain changes. The main changes are —

- (a) an amendment to the definition of “the Directive” so as to include the amendments made to Commission Directive [2002/72/EC](#) by Commission Directive [2005/79/EC](#), which introduces new provisions relating to PVC gaskets containing epoxidised soybean oil and makes widespread changes to the Annexes containing lists of authorised monomers (including other starting substances) and additives;
- (b) provision for a transitional defence relating to the sale of jars of foods for infants and young children sealed with PVC gaskets containing epoxidised soybean oil; and
- (c) the replacement of most of the content of Schedules 1 to 4 of the No. 1 Regulations by the incorporation, by reference to Annexes of Commission Directive [2002/72/EC](#) as amended, of the specifications and lists of authorised substances formerly contained in those Schedules.

2. The Regulations in Part 2 —

- (a) prohibit specified activities in relation to any plastic material or article (as defined in *regulation 2*) which fails to meet the appropriate required standards set out in the Regulations (*regulation 3*);
- (b) prohibit the use of monomers and additives in the manufacture of plastic materials and articles other than in accordance with specified conditions (*regulation 4 and Schedule 1 in the case of monomers and regulation 5 and Schedule 1 in the case of additives*);
- (c) specify the required standards relating to the capability of a monomer or an additive to confer its constituents to food (*regulation 6 for monomers and regulation 7 for additives*);
- (d) specify the required standard for products obtained by bacterial fermentation (*regulation 8*);
- (e) specify the required standard relating to overall migration limits from plastic materials or articles to food (*regulation 9*);
- (f) specify the required standards relating to the migration of primary aromatic amines from plastic materials or articles to food (*regulation 10*);
- (g) specify the methods for determining the capability of a plastic material or article to transfer its constituents to food, and for detecting the presence of any such constituents in food (*regulation 11 and Schedules 2 & 3*);
- (h) provide that prior to the retail stage plastic materials and articles must be accompanied by certain specified written information, including a declaration of legislative compliance (*regulation 12*);

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Plastic Materials and Articles in Contact with Food (England) (No.2) Regulations 2006*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (i) provide for the execution and enforcement of Regulation 1895/2005 on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food (OJ No. L302, 19.11.2005, p.28), which contains Community provisions relating to the epoxy derivatives known as BADGE, BFDGE and NOGE (*regulation 13*).
3. The Regulations in Part 3 —
- (a) designate food authorities and port health authorities as the enforcement authorities in their respective areas or districts (*regulation 14*);
  - (b) specify the offences that may be committed under these Regulations and set out the maximum penalties on conviction (*regulation 15*);
  - (c) provide for defences of a general nature, such as exercise of due diligence etc, to offences under regulation 15 (*regulation 16*);
  - (d) provide a defence relating to the sale of glass jars that contain certain foods for infants and young children and that have been sealed with a PVC gasket containing epoxidised soybean oil (*regulation 17*);
  - (e) provide for transitional defences in relation to certain plastic materials or articles that have already been manufactured or put into circulation in advance of a change in the law that would otherwise have made their manufacture or circulation unlawful (*regulation 18*);
  - (f) specify the procedure to be followed when sending a sample for analysis (*regulation 19*);
  - (g) make provision for a reference sample to be analysed by the Laboratory for the Government Chemist (*regulation 20*).
4. Part 4 of the Regulations contains provisions relating to the procedure to be followed and the time limit to be observed where a person wishes to apply to the European Food Safety Authority for the authorisation of a new additive (*regulation 21*).
5. The principal Directives implemented by these Regulations are —
- (a) Council Directive [82/711/EEC](#) (OJ No. L297, 23.10.1982, p.26) laying down the basic rules necessary for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs, as amended by Commission Directives [93/8/EEC](#) (OJ No. L90, 14.4.1993, p.22) and [97/48/EC](#) (OJ No. L222, 12.8.1997, p.10);
  - (b) Council Directive [85/572/EEC](#) laying down the list of simulants to be used for testing migration of constituents of plastic materials and articles intended to come into contact with foodstuffs (OJ No. L372, 31.12.1985, p.14);
  - (c) Commission Directive [2002/72/EC](#) (OJ No. L220, 15.8.2002, p.18) relating to plastic materials and articles intended to come into contact with foodstuffs, as amended by Commission Directives [2004/1/EC](#) (OJ No. L7, 13.1.2004, p.45), [2004/19/EC](#) (OJ No. L71, 10.3.2004, p.8) and [2005/79/EC](#) (OJ No. L302, 19.11.2005, p.35).
6. A full regulatory impact assessment of the effect that this instrument will have on the costs of business has been prepared and placed in the library of each House of Parliament. Copies may be obtained from the Chemical Safety Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.

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**Changes and effects yet to be applied to :**

- Sch. 1 para. 1 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 1 para. 2 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 1 para. 3 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 1 para. 4 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 1 para. 5 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 2 para. 1 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 2 para. 2 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 2 para. 3 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 2 para. 4 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 2 para. 5 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 2 para. 6 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 2 para. 7 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 2 para. 8 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 1 para. 1 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 1 para. 2 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 1 para. 3 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 1 para. 4 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 2 para. 1 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 2 para. 2 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 2 para. 3 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 2 para. 4 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 2 para. 5 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 3 para. 1 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 3 para. 2 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 3 para. 3 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 3 para. 4 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 3 para. 5 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 3 para. 6 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 3 para. 7 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 3 para. 8 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 4 para. 1 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 4 para. 2 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 4 para. 3 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 4 para. 4 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 4 para. 5 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 5 para. 1 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 5 para. 2 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 5 para. 3 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 5 para. 4 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 5 para. 5 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 5 para. 6 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 5 para. 7 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 5 para. 8 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 6 para. 1 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 6 para. 2 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 6 para. 3 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 6 para. 4 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 6 para. 5 coming into force by [S.I. 2006/2687 reg. 1](#)
- Sch. 3 Pt. 6 para. 6 coming into force by [S.I. 2006/2687 reg. 1](#)

- Sch. 3 Pt. 7 para. 1 coming into force by S.I. 2006/2687 reg. 1
- Sch. 3 Pt. 7 para. 2 coming into force by S.I. 2006/2687 reg. 1
- Sch. 3 Pt. 7 para. 3 coming into force by S.I. 2006/2687 reg. 1
- Regulations revoked by S.I. 2008/916 reg. 29(a)
- reg. 1 coming into force by S.I. 2006/2687 reg. 1
- reg. 2 coming into force by S.I. 2006/2687 reg. 1
- reg. 2(1) words omitted by S.I. 2007/2790 reg. 24(2)
- reg. 3 coming into force by S.I. 2006/2687 reg. 1
- reg. 4 coming into force by S.I. 2006/2687 reg. 1
- reg. 5 coming into force by S.I. 2006/2687 reg. 1
- reg. 6 coming into force by S.I. 2006/2687 reg. 1
- reg. 7 coming into force by S.I. 2006/2687 reg. 1
- reg. 8 coming into force by S.I. 2006/2687 reg. 1
- reg. 9 coming into force by S.I. 2006/2687 reg. 1
- reg. 10 coming into force by S.I. 2006/2687 reg. 1
- reg. 11 coming into force by S.I. 2006/2687 reg. 1
- reg. 11(1)(b) words substituted by S.I. 2007/2790 reg. 24(3)
- reg. 12 coming into force by S.I. 2006/2687 reg. 1
- reg. 13 coming into force by S.I. 2006/2687 reg. 1
- reg. 14 coming into force by S.I. 2006/2687 reg. 1
- reg. 15 coming into force by S.I. 2006/2687 reg. 1
- reg. 16 coming into force by S.I. 2006/2687 reg. 1
- reg. 17 coming into force by S.I. 2006/2687 reg. 1
- reg. 18 coming into force by S.I. 2006/2687 reg. 1
- reg. 19 coming into force by S.I. 2006/2687 reg. 1
- reg. 20 coming into force by S.I. 2006/2687 reg. 1
- reg. 21 coming into force by S.I. 2006/2687 reg. 1
- reg. 22 coming into force by S.I. 2006/2687 reg. 1
- reg. 23 coming into force by S.I. 2006/2687 reg. 1
- reg. 24 coming into force by S.I. 2006/2687 reg. 1
- reg. 24 revoked by S.I. 2007/2790 reg. 25(b)
- reg. 25 coming into force by S.I. 2006/2687 reg. 1